

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

JERRY WAYNE BOYD,

Plaintiff,

v.

CIVIL ACTION NO. 5:17-cv-04287

CONSOL ISLAND CREEK COAL, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

On November 7, 2017, the Plaintiff, proceeding *pro-se*, filed his *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) and his *Complaint* (Document 2) in this matter. By *Standing Order* (Document 3) entered on that date, this action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On November 13, 2017, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 4) wherein it is recommended that the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* be denied, the Plaintiff's *Complaint* be dismissed, and this matter be removed from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by November 30, 2017.


Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the

factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) be **DENIED**, the Plaintiff's *Complaint* (Document 2) be **DISMISSED**, and this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: December 5, 2017

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA